

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Thomas Marvin Fair, Jr.,)	C/A No. 0:10-1268-RMG-PJG
)	
Plaintiff,)	
)	
v.)	
)	
Jon E. Ozmint, <i>Director for the South</i>)	
<i>Carolina Department of Corrections</i> ; Robert)	ORDER
E. Ward, <i>Division Director of Operations for</i>)	
<i>the South Carolina Department of Corrections</i> ;)	
James E. Sligh, Jr., <i>Operations Coordinator of</i>)	
<i>the South Carolina Department of Corrections</i>)	
<i>and the rest of the Prison Rape Elimination</i>)	
<i>Act Review Committee et al.</i> ; Anthony J.)	
Padula, <i>Warden of Lee Correctional</i>)	
<i>Institution</i> ; C. York, <i>Classification</i>)	
<i>Caseworker at Lee Correctional Institution</i> ;)	
Bruce Oberman, <i>Special Management Unit</i>)	
<i>Administrator at Lee Correctional Institution</i> ;)	
Anthony Davis, <i>Lieutenant at Lee Correctional</i>)	
<i>Institution</i> ; R. Hilton, <i>Classification</i>)	
<i>Caseworker at Lee Correctional Institution</i> ; all)	
in their individual and official capacities,)	
)	
Defendants.)	
_____)	

This civil rights matter is before the court pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) DSC on the motion of the plaintiff, Thomas M. Fair, Jr. ("Fair"), a self-represented state prisoner, to recuse the assigned magistrate judge. (ECF No. 34.) Fair asserts that the assigned magistrate judge previously adjudicated issues involved in the instant matter during her prior service as a judge on the South Carolina Administrative Law Court. See Fair v. S.C. Dep't of Corr., Docket No. 06-ALJ-04-0912-AP (S.C. Admin. Law Ct. March 7, 2008) (Gossett, J.). Section 455(a) of Title 28 of the United States Code requires recusal of a federal judge in any proceeding in which her

impartiality might reasonably be questioned. See 28 U.S.C. § 455(a). Moreover, although not directly applicable here, § 47 of that title instructs that it is inappropriate for a judge “to hear or determine an appeal from the decision of a case or issue tried by him.” 28 U.S.C. § 47. It appearing that adjudication of the instant case may require collateral review of issues previously decided by the undersigned in Fair’s case before the Administrative Law Court, it is hereby

ORDERED that Fair’s motion is GRANTED. The Clerk of Court is directed to re-assign this matter to another magistrate judge.

IT IS SO ORDERED.



Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

October 6, 2010
Columbia, South Carolina